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CM/ECF

Hon. Claire C. Cecchi, U.S.D.J.
United States District Court
50 Walnut Street
Newark, NJ 07012

Re: Robinson and Knopfler v. Murphy and Callahan
Civil Action No. 2:20-cv-05420-CCC-ESK
Reply to defense letter re EO 219

Dear Judge Cecchi:

In reply to defense counsel's letter of today's date (ECF No. 127), attaching Executive Order 219, kindly note plaintiffs' position with respect thereto in advance of oral argument on Friday: EO 219 does not grant the relief plaintiffs have requested (*see* Third Amended Complaint, ECF No. 101, Prayer for Relief, 1 a. and b) and can easily be rescinded to return to prior challenged restrictions in Governor Murphy's sole and unfettered discretion. *See Roman Catholic Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 68, 72 (2020)(abrupt lessening of Governor Cuomo's COVID-19 restriction on churches in "shadow of our review" did not moot challenge to prior restriction because "applicants remain under a constant threat that the area in question will be reclassified" and the "Governor regularly changes the classification of particular areas without prior notice.")

Further, after nearly a year of restrictions on houses of worship more severe than those on numerous houses of commerce, plaintiffs maintain that the Governor's continued practice of dispensing salami slices of religious liberty at key junctures in this litigation is not supported by "science" or verified data and cannot survive strict scrutiny. Order 219 continues to deny plaintiffs the same treatment as those secular activities the Supreme Court deemed appropriate comparators: factories, large stores, schools, and various "non-essential businesses" afforded greater capacity than churches or synagogues. *Id.* at 60.

Respectfully submitted,

s:// Christopher A. Ferrara
Christopher A. Ferrara
Counsel for Plaintiffs

c: **By CM/ECF**

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